



FEDERAL COMMUNICATIONS COMMISSION

[DA 14-1231]

Notice of Suspension and Commencement of Proposed Debarment Proceedings; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the “Bureau”) gives notice of Donna P. English’s suspension from the schools and libraries universal service support mechanism (or “E-Rate Program”). Additionally, the Bureau gives notice that debarment proceedings are commencing against him. Ms. English, or any person who has an existing contract with or intends to contract with her to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation.

DATES: Opposition requests must be received by 30 days from the receipt of the suspension letter or **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, whichever comes first. The Bureau will decide any opposition request for reversal or modification of suspension or debarment within 90 days of its receipt of such requests.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joy Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street, SW., Washington, DC 20554. Joy Ragsdale may be contacted by phone at (202) 418-1697 or e-mail at Joy.Ragsdale@fcc.gov. If Ms. Ragsdale is unavailable, you may contact Ms. Theresa Cavanaugh, Chief, Investigations and Hearings Division, by telephone at (202) 418-1420 and by e-mail at Terry.Cavanaugh@fcc.gov.

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111(a)(14). Suspension will help to ensure that the party to be suspended

cannot continue to benefit from the schools and libraries mechanism pending resolution of the debarment process. Attached is the suspension letter, DA 14-1231, which was mailed to Ms. English and released on August 26, 2014. The complete text of the notice of suspension and initiation of debarment proceedings is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, In addition, the complete text is available on the FCC's Web site at <http://www.fcc.gov>. The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY-B420, Washington, DC 20554, telephone (202) 488-5300 or (800) 378-3160, facsimile (202) 488-5563, or via e-mail <http://www.bcpweb.com>.

FEDERAL COMMUNICATIONS COMMISSION.

Theresa Z. Cavanaugh,

Chief, Investigations and Hearings Division, Enforcement Bureau.

August 26, 2014

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Ms. Donna P. English

225 Warren Road

Michigan City, IN 46360

Re: Notice of Suspension and Initiation of Debarment Proceeding

File No. EB-IHD-14-00015686

Dear Ms. English:

The Federal Communications Commission (Commission) has received notice of your conviction for several offenses, including mail and wire fraud in violation of 18 U.S.C. 1341 and 1343, arising out of activities associated with the federal schools and libraries universal service support mechanism (E-Rate program).¹ Consequently, pursuant to 47 CFR 54.8, this letter constitutes official notice of your suspension from the E-Rate program.² In addition, the Enforcement Bureau (Bureau) hereby notifies you that the Bureau will commence debarment proceedings against you.³

¹ Any further reference in this letter to “your conviction” refers to your guilty plea and subsequent sentencing in United States v. English, Case No. 2:10cr75-001, Plea Agreement (N.D. Ind., filed Dec. 6, 2010) (Plea Agreement).

² 47 CFR 54.8.

³ Id. 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the E-Rate program in 2003. See Schools and Libraries Universal Service Support Mechanism, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (Second Report and Order) (adopting Section 54.521 to suspend and debar parties from the E-Rate program). In 2007 the Commission extended the debarment rules to apply to all federal universal service support mechanisms. Comprehensive Review of

I. Notice of Suspension

The Commission has established procedures to prevent persons who have “defrauded the government or engaged in similar acts through activities associated with or related to the [E-Rate program]” from receiving the benefits associated with that program.⁴ The statutory provisions and Commission rules relating to the E-Rate program are designed to ensure E-Rate funds are used for their intended purpose.⁵ Schools may receive E-Rate program funding for eligible goods and services by filing application forms, seeking competitive bids, and selecting the most cost-effective vendor.⁶ The E-Rate program rules prohibit an E-Rate vendor or anyone associated with an E-Rate vendor from participating in the application process or vendor selection.⁷

the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rural Health Care Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Report and Order, 22 FCC Rcd 16372, App. C at 16410–12 (2007) (Program Management Order) (renumbering Section 54.521 of the universal service debarment rules as Section 54.8 and amending subsections (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

⁴ Second Report and Order, 118 FCC Rcd at 9225, para. 66; Program Management Order, 22 FCC Rcd at 16387, para. 32. The Commission’s debarment rules define a “person” as “[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized.” 47 CFR 54.8(a)(6).

⁵ NEC-Business Network Solutions, Inc., Notice of Debarment and Order Denying Waiver Petition, 21 FCC Rcd 7491, 7493, para. 7 (2006).

⁶ 47 CFR 54.503, 54.504(a), 54.511(a).

⁷ 47 CFR 54.503(a); see Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket No. 96-45, Order, 16 FCC Rcd 4028, 4032–33 paras. 10–12 (2000) (Mastermind Order) (finding that when an applicant surrenders control of the bidding process to an employee of an entity that will also participate in the bidding process as a prospective service provider, the applicant irreparably impairs its ability to hold a fair and open competitive bidding process); see also Universal Service Administration Company’s (USAC’s) website description of an Open and Fair Competitive Bidding Process, Step 2 available at <http://www.universalservice.org/sl/applicants/step02/competitive-bidding.aspx> (last visited May 6, 2014).

In December 2010, you pled guilty to knowingly devising a scheme to fraudulently obtain money from the E-Rate program.⁸ You perpetrated this scheme as the owner of Project Managers, Inc. (PMI), a self-styled information technology consulting company in Michigan City, Indiana, that purported to provide technological services to and assist the River Forest Community School Corporation (RFCSC) in its efforts to qualify for E-Rate funding.⁹ Specifically, from 2002 through 2007, you violated the E-Rate program rules by completing, submitting, and fraudulently certifying E-Rate program applications (FCC Forms 470, 471, 474, and 486) on behalf of RFCSC.¹⁰ In addition, you submitted false invoices to and received payment from RFCSC and USAC for a Cisco SMARTnet network maintenance agreement, Watchguard Internet Security Program Renewal, and technical service hours that you never provided to RFCSC.¹¹ You also sought cash advances from RFCSC for your purported E-Rate services, but never repaid the advances once the E-Rate program paid you.¹²

In October 2011, the United States District Court for the Northern District of Indiana sentenced you to 27 months imprisonment followed by three years supervised release.¹³ The court also ordered you to pay \$213,064 in restitution and a \$400 special assessment.¹⁴

Pursuant to section 54.8(b) of the Commission's rules,¹⁵ your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the E-Rate program, including the receipt of funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers regarding the E-Rate program.¹⁶

⁸ Plea Agreement at 5. Mrs. English also served as RFCSC's interim technology director between June 2005 and March 2007.

⁹ United States v. English Case No. 2:10cr75-001, Indictment at 1 (N.D. Ind., filed May 6, 2010) (Indictment). The RFCSC school district consists of two (2) K–5 elementary schools, one (1) K–6 elementary school, and the River Forest Junior–Senior High School. Id. at 1–2.

¹⁰ Id. at 6–7, 10.

¹¹ Id. at 7–8.

¹² Plea Agreement at 6.

¹³ United States v. English Case No. 2:10cr75-001, Judgment at 6 (N.D. Ind., May 11, 2011) (Judgment). The prison term consists of 27 months for each of counts 4, 16, 22, and 23 and will run concurrently. The supervised release period is for 3 years for each of counts 4, 16, 22, and 23, and will run concurrently.

¹⁴ Id. at 6. This restitution order includes \$87,983.14 payable to USAC.

¹⁵ 47 CFR 54.8(a)(4); see Second Report and Order, 18 FCC Rcd at 9225–27, paras. 67–74.

Your suspension becomes effective upon either your receipt of this letter or its publication in the Federal Register, whichever comes first.¹⁷

In accordance with the Commission's suspension and debarment rules, you may contest this suspension or the scope of this suspension by filing arguments, with any relevant documents, within thirty (30) calendar days of your receipt of this letter or its publication in the Federal Register, whichever comes first.¹⁸ Such requests, however, will not ordinarily be granted.¹⁹ The Bureau may reverse or limit the scope of a suspension only upon a finding of extraordinary circumstances.²⁰ The Bureau will decide any request to reverse or modify a suspension within ninety (90) calendar days of its receipt of such request.²¹

II. Initiation of Debarment Proceedings

In addition to requiring your immediate suspension from the E-Rate program, your conviction is cause for debarment as defined in section 54.8(c) of the Commission's rules.²² Therefore, pursuant to section 54.8(b) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.²³

¹⁶ 47 CFR 54.8(a)(1), (d).

¹⁷ Second Report and Order, 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

¹⁸ 47 CFR 54.8(e)(4).

¹⁹ Id.

²⁰ 47 CFR 54.8(f).

²¹ Second Report and Order, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5), (f).

²² "Causes for suspension and debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism." 47 CFR 54.8(c). Associated activities "include the receipt of funds or discounted services through [the federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the federal universal service] support mechanisms." Id. 54.8(a)(1).

²³ Id. 54.8(b).

As with the suspension process, you may contest the proposed debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within thirty (30) calendar days of receipt of this letter or its publication in the Federal Register, whichever comes first.²⁴ The Bureau, in the absence of extraordinary circumstances, will notify you of its decision to debar within ninety (90) calendar days of receiving any information you may have filed.²⁵ If the Bureau decides to debar you, its decision will become effective upon either your receipt of a debarment notice or publication of the decision in the Federal Register, whichever comes first.²⁶

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the E-Rate program for three years from the date of debarment.²⁷ The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.²⁸

Please direct any response, if sent by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554 and to the attention of Joy M. Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554 with a copy to Theresa Z. Cavanaugh, Division Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. All messenger or hand delivery filings must be submitted without envelopes.²⁹ If sent by commercial overnight mail (other than U.S. Postal Service (USPS) Express Mail

²⁴ Second Report and Order, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

²⁵ Second Report and Order, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

²⁶ 47 CFR 54.8(e)(5). The Commission may reverse a debarment, or may limit the scope or period of debarment, upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. Id. 54.8(f).

²⁷ Second Report and Order, 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), (g).

²⁸ 47 CFR 54.8(g).

²⁹ See FCC Public Notice, DA 09-2529 for further filing instructions (rel. Dec. 3, 2009).

and Priority Mail), the response must be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by USPS First Class, Express Mail, or Priority Mail, the response should be addressed to Joy Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554, with a copy to Theresa Z. Cavanaugh, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554. You shall also transmit a copy of your response via e-mail to Joy M. Ragsdale, Joy.Ragsdale@fcc.gov and to Theresa Z. Cavanaugh, Terry.Cavanaugh@fcc.gov.

If you have any questions, please contact Ms. Ragsdale via U.S. postal mail, e-mail, or by telephone at (202) 418-1697. You may contact me at (202) 418-1553 or at the e-mail address noted above if Ms. Ragsdale is unavailable.

Sincerely yours,

Theresa Z. Cavanaugh

Chief

Investigations and Hearings Division

Enforcement Bureau

cc: Johnnay Schrieber, Universal Service Administrative Company (via e-mail)

Rashann Duvall, Universal Service Administrative Company (via e-mail)

Jonathan M. Minkus, Law Offices of Jonathan Minkus (via e-mail)

Toi Denise Houston, United States Attorney's Office, Hammond, IN (via e-mail)

Jennifer Dixon, United States Department of Justice, Antitrust Division (via e-mail)

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